

1	MICHAEL E. BREWER, Bar No. 177912 mbrewer@littler.com		
2	PHILIP A. SIMPKINS, Bar No. 246635		
3	pasimpkins@littler.com LITTLER MENDELSON, P.C.		
4	Treat Towers 1255 Treat Boulevard, Suite 600		
5	Walnut Creek, California 94597 Telephone: 925.932.2468		
6	Facsimile: 925.946.9809		
7	Attorneys for Defendant OFFICE DEPOT, INC.		
8	RICHARD M. ROGERS, Bar No. 045843		
9	RogersRMR@yahoo.com LAW OFFICE OF RICHARD M. ROGERS 100 Bush Street, #1980 San Francisco, CA 94104 The Francisco of the following the followin		
10			
11	Telephone: 415.981.9788 Facsimile: 415.981.9798		
12	Attorney for Plaintiff MICHAEL BARID		
13	UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF CALIFORNIA		
14			
15	TORTIER DI	STREET OF CIEN OR WI	
16	MICHAEL BAIRD,	Case No. 3:12-CV-06316-EMC	
17	Plaintiff,	STIPULATED REQUEST FOR	
18	V.	DISMISSAL OF AFFIRMATIVE DEFENSES WITHOUT PREJUDICE; AND	
19	OFFICE DEPOT,	[PROPOSED] ORDER	
20	Defendant.		
21			
22	WHEREAS, in light of the Court's	Order Granting in Part and Denying in Part Plaintiff's	
23	Motion for Partial Summary Judgment, Defendant has reanalyzed the remaining affirmative defense and determined that it should voluntarily dismiss without prejudice the Tenth, Eighteenth Nineteenth, Twentieth, Fortieth, Forty-First, and Forty-Third Affirmative Defenses as they "are, in		
24			
25			
26	effect, denials of liability" with respect to elements on which Plaintiff has the burden of proof, and		
27	WHEREAS, the Parties have met and conferred regarding Defendant's Fifth and Sixtle		
28	, =		

LITTLER MENDELSON, P.C. Treat Towers 1255 Treat Boulevard Suite 600 Walnut Creek, CA 94597 925.932.2468

(NO. 3:12-CV-06316-EMC)

STIPULATED REQUEST FOR DISMISSAL OF AFFIRMATIVE DEFENSES WITHOUT PREJUDICE; [PROPOSED] ORDER

1	Affirmative Defenses and Defendant has agreed to dismiss those defenses without prejudice,		
2	THEREFORE, IT IS HEREBY STIPULATED by and between the undersigned parties,		
3	through their counsel of record:		
4	1. That Defendant's Fifth, Sixth, Tenth, Eighteenth, Nineteenth, Twentieth, Fortieth,		
5	Forty-First, and Forty-Third Affirmative Defenses be dismissed without prejudice;		
6	2. That such dismissals shall not bar Defendant from arguing at trial that Plaintiff cannot		
7	establish the essential elements of his claims based on the same underlying facts Defendant		
8	previously offered in support of the dismissed affirmative defenses.		
9	IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.		
10	0		
11	DATED: March 20, 2014 /S	/ Philip A. Simpkins	
12	/: II	IICHAEL E. BREWER HILIP A. SIMPKINS	
13		ITTLER MENDELSON, P.C. ttorneys for Defendant, OFFICE DEPOT, INC.	
14			
15	5 DATED: March 20, 2014	S/ Richard M. Rogers	
16	6 R	RICHARD M. ROGERS AW OFFICE OF RICHARD M. ROGERS	
17		Attorney for Plaintiff, MICHAEL BAIRD	
18	8		
19	I, the filer of this document, attest that all of	I, the filer of this document, attest that all other signatories listed, and on whose behalf the	
20	filing is submitted, concur in the filing's content and have authorized the filing.		
21	1		
22		Philip A. Simpkins	
23	\overline{MI}	CHAEL E. BREWER ILIP A. SIMPKINS	
24	4 LIT	TTLER MENDELSON, P.C. orneys for Defendant, OFFICE DEPOT, INC.	
25	5	offices for Defendant, Office Defot, INC.	
26	6		
27	7		
28			
, P.C.	c. (NO. 3:12-CV-06316-EMC) 2.	STIPULATED REQUEST FOR DISMISSAL OF AFFIRMATIVE DEFENSES WITHOUT	

LITTLER MENDELSON, P.C. Treat Towers 1255 Treat Boulevard Suite 600 Walnut Creek, CA 94597 925.932.2468

PREJUDICE; [PROPOSED] ORDER

[PROPOSED] ORDER

- 1. Defendant's Fifth, Sixth, Tenth, Eighteenth, Nineteenth, Twentieth, Fortieth, Forty-First, and Forty-Third Affirmative Defenses shall be dismissed without prejudice;
- Such dismissals shall not bar Defendant from arguing at trial that Plaintiff cannot establish the essential elements of his claims based on the same underlying facts Defendant previously offered in support of the dismissed affirmative defenses.

3.

IT IS SO ORDERED.

3/21 Dated: 2014

Firmwide:125873863.1 063095.1058

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

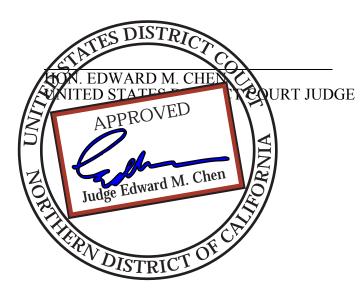
23

24

25

26

27



28 LITTLER MENDELSON, P.C. Treat Towers 1255 Treat Boulevard

Suite 600 nut Creek, CA 94597

925.932.2468